

IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 8 OF 1998

SMT. LEELA YESHWANT BANDARI

....Appellant

Versus

SMT.ANA MARIA PEREIRA(SINCE DEC.)
BY L.RS

....Respondent

Mr.M.S.Sonak, Advocate for the Appellant.

Mr. S.D.Lotlikar, Senior Advocate with Mr. M. D' Souza, Advocate for Respondent no.2 (4).

Coram:- N. A. BRITTO, J.

Date:- 6th July, 2006

P.C.

Heard Shri Sonak, the learned Counsel on behalf of the appellants/original plaintiffs.

2. The second appeal has been filed against the Order dated 18.10.1997 of the learned Addl. District Judge, Margao, holding that the appeal is abated on account of the death of respondent nos.1 and 2. As held by this Court in the case of Mrs. Marianinha Fernandes Vaz v. Peter Fernandes & anr. (2006 (1) AIR Bom R 495), a second appeal would not be maintainable against such an order. Learned Advocate Shri Sonak therefore submits that the appellants herein be permitted to withdraw the appeal with liberty to file appropriate proceedings. Shri Lotlikar, the learned Senior Counsel on behalf of the respondent has no objection for the withdrawal of the appeal, per se, but he submits that no liberty be granted to the appellants.

3. In my view, considering that a second appeal was filed when no second appeal was maintainable, this would be a fit case to grant the

withdrawal of the appeal with liberty as sought for on behalf of the appellants. This second appeal shall stand disposed of accordingly. Certified copies to be returned to the appellants with condition that they are replaced by xerox copies.

N. A. BRITTO, J.

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